

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Bobby Gene Gracy,)	
)	C/A No. 9:18-1311-TMC
Petitioner,)	
)	
v.)	ORDER
)	
Warden Antonelli,)	
)	
Respondent.)	
_____)	

Petitioner Bobby Gene Gracy, a pro se federal prisoner, filed this habeas action pursuant to 28 U.S.C. § 2241. On July 13, 2018, Magistrate Judge Bristow Marchant issued a Report and Recommendation (“Report”) recommending that the Petition be dismissed without prejudice for failure to prosecute pursuant to Fed. R. Civ. P. 41. (ECF No. 8).¹ Petitioner was advised of his right to file objections to the Report. (ECF No. 8 at 3). However, Petitioner has not filed any objections to the Report and the time for doing so has expired.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file

¹ In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2), D.S.C., all pre-trial proceedings were referred to a magistrate judge.

specific written objections to the Report results in a party's waiver of the right to appeal the district court's judgment based upon that recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and the record in this case, the court adopts the Magistrate Judge's Report (ECF No. 8) and incorporates it herein. Accordingly, this action is **DISMISSED without prejudice** pursuant to Rule 41. *See Ballard v. Carlson*, 882 F.2d 93, 95-96 (4th Cir. 1989).

IT IS SO ORDERED.

s/ Timothy M. Cain
United States District Judge

Anderson, South Carolina
August 1, 2018